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ORIGINAL  
FILED

JUL 23 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Louis Vuitton Malletier, S.A.,**

**Plaintiff,**

v.

NexTag, Inc. and Does 1 through 10, inclusive,

## Defendants.

C 07 3763

Case No. 1

**Complaint For: Trademark Infringement;  
Contributory and Vicarious Trademark  
Infringement; Contributory and  
Vicarious Copyright Infringement**

Plaintiff Louis Vuitton Malletier, S.A. (“Louis Vuitton” or “Plaintiff”) for its complaint alleges as follows:

#### **I. Jurisdiction and Venue**

1. The claims alleged herein arise under the Trademark Act, 15 U.S.C. § 1051, et seq., and under the Copyright Act of 1976, 17 U.S.C. § 101, et seq., for (i) infringement of trademarks registered in the United States Patent and Trademark Office, (ii) contributory and vicarious liability for counterfeiting; and (iii) contributory and vicarious liability for copyright piracy.

2. This Court has original jurisdiction over the subject matter of this action pursuant to  
15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1332 and 1338.

COPY

1       3. This Court has personal jurisdiction over the Defendants because they do business  
2 and/or reside in the State of California and, as to the entities, do business, are incorporated, and/or  
3 are authorized to do business in the State of California.  
4

5       4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

6       **II. Introduction**

7       5. Profits from online piracy and counterfeiting have led to the creation, development  
8 and proliferation of business models, the object of which is to capitalize on world famous  
9 trademarks and copyrights owned by others, including those owned by Plaintiff. Defendant  
10 NexTag, Inc. (“Defendant” or “NexTag”) is one of the leading advertising sites on the Internet and  
11 among those online businesses which flagrantly, willfully and persistently engage in activity which  
12 constitutes infringement of Louis Vuitton’s intellectual property and which simultaneously  
13 promotes the sale of counterfeit and piratical copies of Louis Vuitton’s intellectual properties.  
14

15       6. NexTag uses Louis Vuitton’s trademarks to promote the sale of illegal counterfeit  
16 product. Defendant does so through its website, [www.nextag.com](http://www.nextag.com) (the “Website”) which provides  
17 comparison of online sellers of Louis Vuitton counterfeit and infringing merchandise. NexTag  
18 does so with knowledge by advertising Internet users’ ability to compare offers of so-called  
19 “replica” product. NexTag’s advertising in support of its comparisons service consists of: (1)  
20 diversion traffic to its website using advertising which embodies the Louis Vuitton trademarks, (2)  
21 routing Internet traffic to websites selling counterfeit, piratical and infringing merchandise (the  
22 “Infringing Activity”).  
23

24       7. Defendant has been placed on notice by Plaintiff that the Infringing Activity violates  
25 Plaintiff’s intellectual property rights and, moreover, that links appearing on the Defendants’  
26 hosted web pages offer counterfeit and infringing product. Despite such notification, NexTag  
27 continues to promote its services by diverting Internet traffic to and through its website and doing  
28

1 so using advertising which expressly offers "replica" Louis Vuitton product and then redirecting  
2 Internet users to third party websites selling counterfeit and infringing merchandise.  
3

4 **III. The Parties: Plaintiff**

5 8. Plaintiff is organized and existing under the laws of the Republic of France, with its  
6 principal place of business in Paris, France. Plaintiff owns the trademarks and trade names  
7 "LOUIS VUITTON", "VUITTON" and "LV" (hereinafter collectively referred to as "Plaintiff's  
8 Trademarks"). Plaintiff has engaged in services using Plaintiff's Trademarks and Plaintiff is the  
9 exclusive distributor in the United States of handbags, luggage and accessories, all of which bear  
10 one or more of Plaintiff's Trademarks. Plaintiff distributes authentic product online through  
11 [www.eluxury.com](http://www.eluxury.com).

12 9. Plaintiff is the sole and exclusive distributor in the United States of leather goods  
13 bearing Plaintiff's trademarks, which are exclusively manufactured in France, Spain and San  
14 Dimas, California. Plaintiff is engaged in the manufacture, sale and distribution in interstate and  
15 foreign commerce of prestigious high-quality, luxury merchandise, including a wide variety of  
16 luggage, handbags, trunks, garment bags, wallets, small leather goods, apparel and other similar  
17 items sold throughout the United States in Louis Vuitton boutiques, and high quality retail stores  
18 such as Saks Fifth Avenue and Neiman Marcus that contain departments operated by Plaintiff and  
19 staffed by Plaintiff's personnel.

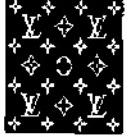
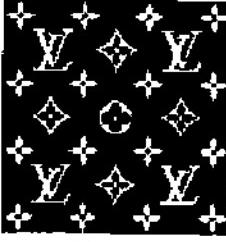
20 10. Plaintiff is responsible for assembling, finishing, marketing and selling in interstate  
21 commerce high quality handbags, luggage, accessories and related products and/or services for  
22 men and women. Plaintiff has acquired an outstanding reputation because of the uniform high  
23 quality of its handbags, luggage and accessories and the boutiques through which Plaintiff sells  
24 these products.

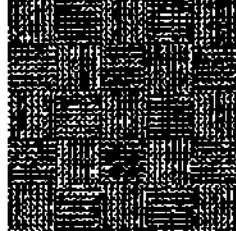
1           11. As a result of the Louis Vuitton boutiques, extensive advertising of Louis Vuitton in  
 2 connection with Plaintiff's intellectual properties, the widespread sale of Louis Vuitton  
 3 merchandise and the celebrity that Plaintiff and Plaintiff's intellectual properties have achieved,  
 4 Louis Vuitton boutiques, handbags, luggage and accessories, all utilizing and/or bearing one or  
 5 more of Plaintiff's intellectual properties have been and are now recognized by the public and the  
 6 trade as originating from Plaintiff.  
 7

8           12. Commencing at least as early as 1932, Plaintiff adopted one or more of Plaintiff's  
 9 Trademarks for handbags, luggage, accessories and related products and caused said trademarks to  
 10 be registered in the United States Patent and Trademark Office.

11           13. Plaintiff is the owner of all rights in and to numerous trademarks including, but not  
 12 limited to, Plaintiff's Trademarks that are the subject of the following trademark registrations:  
 13

TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters) in a Circle Design	286,345		18
Louis Vuitton (Interlocked Letters) and Monogram Canvas Design	297,594		18
LOUIS VUITTON	1,045,932	LOUIS VUITTON	18
Louis Vuitton (Interlocked Letters) Design	1,519,828		18

	TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
1	LOUIS VUITTON MALLETIER A PARIS in Rectangle	1,615,681		16, 18
2	Louis Vuitton (Interlocked Letters) on Epi Leather Design	1,655,564		18
3	Louis Vuitton (Interlocked Letters) and Monogram Canvas Pattern Design	1,770,131		25
4	Louis Vuitton (Interlocked Letters) Design	1,794,905		16, 25
5	Louis Vuitton (Interlocked Letters) and Monogram Canvas Design	1,875,198		16
6	Louis Vuitton (Interlocked Letters)	1,938,808		14, 24

	TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
1	LOUIS VUITTON World Mark	1,990,760	LOUIS VUITTON	16, 18, 24, 25
2	Louis Vuitton (Interlocked Letters) Design	2,291,907		34
3	LOUIS VUITTON	2,303,212	LOUIS VUITTON	34
4	Louis Vuitton (Interlocked Letters) Design	2,361,695		25
5	LOUIS VUITTON PARIS and Damier (pattern design)	2,378,388		18
6				
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20        14. Plaintiff's Trademarks are in full force and effect, and are used and have never been  
 21 abandoned. Plaintiff intends to continue to preserve and maintain its rights with respect to  
 22 Plaintiff's Trademarks.

23        15. Plaintiff's products utilizing and/or bearing one or more of Plaintiff's Trademarks,  
 24 by reason of their style, distinctive designs and quality have come to be known by the purchasing  
 25 public throughout the United States as being of the highest quality. As a result thereof, Plaintiff's  
 26 Trademarks and the goodwill associated therewith are of inestimable value to Plaintiff.  
 27

1       16. Based on the Louis Vuitton boutiques and the extensive sales of Plaintiff's products  
2 and their wide popularity, Plaintiff's Trademarks have developed a secondary meaning and  
3 significance in the minds of the purchasing public, and the services and products utilizing and/or  
4 bearing such marks and names are immediately identified by the purchasing public with Plaintiff.

5       17. Those trademarks are vital to Plaintiff, and Plaintiff will suffer irreparable harm if  
6 any third parties, including Defendant herein, are allowed to continue engaging in services and  
7 selling infringing goods utilizing and/or bearing identical or substantially similar trademarks.

8       18. Louis Vuitton has also registered its copyrights in the United States Copyright  
9 Office and uses those copyrights in connection with its sale of luxury products. A significant  
10 aspect of Louis Vuitton's business is the merchandising of product incorporating the distinctive  
11 elements associated with its luxury goods.

12       19. The revenue from products that bear Louis Vuitton designs and are sold in the  
13 United States is substantial. The appearance and other features of the Louis Vuitton designs are  
14 inherently distinctive. The design, configuration, and distinctive features of the Louis Vuitton  
15 copyrighted works, and of works related thereto (hereinafter collectively, the "Louis Vuitton  
16 Copyrighted Designs"), are wholly original with Louis Vuitton and, as fixed in various tangible  
17 media, including merchandise, are copyrightable subject matter under the United States Copyright  
18 Act, 17 U.S.C., Sections 101 et seq. Louis Vuitton is the owner of the Louis Vuitton Copyrighted  
19 Designs, which, as featured in connection with various merchandise, are copyrightable subject  
20 matter under the Copyright Act of 1976, 17 U.S.C. § 101, et seq. (The Louis Vuitton Trademarks  
21 and the Louis Vuitton Copyrighted Designs are hereinafter collectively referred to as the "Louis  
22 Vuitton Intellectual Properties").

23       20. Louis Vuitton has complied in all respects with the laws governing copyright and  
24 has secured the exclusive rights and privileges in and to the copyrights to Louis Vuitton

1 Copyrighted Designs. Louis Vuitton owns certificates of registration for works in which the Louis  
 2 Vuitton Copyrighted Designs appear. Copyright registrations secured by Louis Vuitton for the  
 3 Louis Vuitton Copyrighted Designs include:

<u>Copyright</u>	<u>Reg. No.</u>	<u>Date Published</u>	<u>Date Registered</u>
Multicolor Monogram – Black Print	VA 1-250-121	12/18/02	06/24/04
Multicolor Monogram – White Print	VA 1-250-120	12/18/02	06/24/04

10  
 11        21. Products featuring the Louis Vuitton Copyrighted Designs that are manufactured,  
 12 sold, and distributed by Louis Vuitton or under its authority have been manufactured, sold, and  
 13 distributed in conformity with the provisions of the copyright laws. Louis Vuitton and those acting  
 14 under its authority have complied with their obligations under the copyright laws and Louis  
 15 Vuitton, in its own right or as successor-in-interest, has at all times been the sole proprietor or  
 16 otherwise authorized to enforce all right, title, and interest in and to the copyrights in the Louis  
 17 Vuitton Copyrighted Designs.  
 18

19        22. Louis Vuitton maintains strict quality control standards for all its products. All  
 20 genuine Louis Vuitton products are inspected and approved by Louis Vuitton prior to distribution  
 21 and sale and are sold only through Louis Vuitton stores and Louis Vuitton boutiques within  
 22 department stores such as Saks Fifth Avenue, Neiman Marcus, and Bloomingdales, and  
 23 ELuxury.com. No Louis Vuitton product is sold by anyone other than Louis Vuitton. By  
 24 definition, any new (i.e. unused) product bearing a Louis Vuitton Intellectual Property that is sold  
 25 anywhere other than at a Louis Vuitton store (or ELuxury.com) is not a genuine Louis Vuitton  
 26 product but rather a counterfeit product. Plaintiff does not sell its high-end products through  
 27  
 28

1 licensees or franchisees and Plaintiff has not authorized independent retail vendors to engage in  
2 services and advertising utilizing and/or displaying Plaintiff's Trademarks.

3       23. At great expense, Louis Vuitton has created, developed, manufactured, advertised,  
4 and marketed its products in such a way that they convey and are associated with luxury products  
5 that meet the highest standards and are used by celebrities and dignitaries around the world.  
6

7       24. Louis Vuitton's goods, so marked, continue to be recognized by the fashion industry  
8 and public as those of Louis Vuitton.

9       25. The Louis Vuitton Intellectual Properties and the goodwill of Louis Vuitton's  
10 business in connection with its trademarks and copyrights are continuously used and have never  
11 been abandoned.  
12

#### IV. The Parties: Defendants

13       26. Defendant NexTag, Inc. is a California corporation with its principal office in San  
14 Mateo, California. NexTag is engaged in a variety of businesses designed to enhance its customers  
15 and affiliates' revenue from commercial sales over the Internet. Plaintiff is informed and believes  
16 and upon that basis alleges that Defendant does business using the trademarks, names and website  
17 addresses [www.nextag.com](http://www.nextag.com) and [www.calibex.com](http://www.calibex.com)

18       27. Plaintiff is informed and believes, and upon that basis alleges, that at all relevant  
19 times each of the defendants Does 1 through 10, inclusive, are unknown to Plaintiff, who therefore  
20 sues such Doe defendants as individuals and/or business entities, agents, partners, and/or  
21 employees of the named Defendants, which, in taking the actions alleged in this Complaint, were  
22 acting within the scope of such agency, partnership, and/or employment.  
23

#### V. The Infringing Activities

24       28. Defendant operates a comparison shopping site. It ranks among the most popular  
25 and influential advertising sites on the Internet and reports more than eight million unique visitors  
26  
27

1 each month. As commercial websites offering a range of different products and services  
2 proliferate, various online services have been developed, published, promoted and replicated to  
3 drive internet traffic to online retailers. Among the devices employed to drive Internet traffic are  
4 “landing pages”, popup and banner advertising and comparison shopping services such as that  
5 published by Defendant. These online services actively promote, aid and abet the promotion,  
6 advertising, display, offer, sale and distribution of the product being sold by these online retailers.  
7 For these services, online retailers pay for traffic and/or sales which result from the assistance so  
8 provided.

9  
10 29. One such service is that offered by Defendant. Defendant's comparison shopping  
11 service operates as a search engine which provides sales information about competitive commercial  
12 offers available online from Defendant's customers, partners and affiliates (the “Defendant's  
13 Accounts”). An Internet user visiting Defendant's website can browse listings using a directory  
14 feature or a user can conduct a search of the site using keywords. In either case a list of offers are  
15 generated and hyperlinks redirect the user to the offeror's website to examine the offer more  
16 closely or to purchase the offered product. In either case, NexTag earns a “pay per click”  
17 commission from the traffic directed to websites operated, managed, and or controlled for the  
18 benefit of Defendant's Accounts.  
19  
20

21 30. Among the categories listed in NexTag's directory is one for Louis Vuitton  
22 handbags. A sample directory listing of such offers is attached hereto as Exhibit A. In addition to  
23 offers for handbags made, offered by and distributed by companies other than Louis Vuitton are  
24 express offers for “replica” or counterfeit Louis Vuitton handbags. Not only are these offers by  
25 their own, express terms, offers for unauthorized and infringing handbags, they are known by  
26 NexTag to be offers for unauthorized counterfeits as a search using the terms “Louis Vuitton” and  
27  
28

1 "replica" results in search results almost identical to the Louis Vuitton handbags directory results.

2 See Exhibit B printout of search results for "Louis Vuitton Replica".

3       31. Consistent with its business model and to better promote its services to online  
4 counterfeiters, NexTag advertises its comparison shopping service and it does so by purchasing  
5 relevant keywords from online publishers, including Yahoo! and Google to maximize traffic and  
6 aid sales by its customers. Among the keywords purchased by NexTag are "Louis Vuitton" and  
7 "replica" as evidenced by the sponsored links included in attached printouts from Yahoo! and  
8 Google. See Exhibit C printouts of Yahoo and Google searches for "Louis Vuitton Replica".

9       32. Louis Vuitton has given NexTag notice of these infringing activities and, despite  
10 such notice, the infringing use of the Louis Vuitton trademarks by NexTag and the knowing  
11 assistance it provides to its online counterfeiter customers continues. See Exhibit D. Defendant  
12 has failed to take any steps to remove links through to sites offering counterfeit Louis Vuitton  
13 merchandise despite such notice and despite its own terms of use which make it a violation of the  
14 terms of use to use Defendant's service to sell infringing merchandise.

15       33. Defendant's activities constitute willful and intentional counterfeiting and/or  
16 infringement of Plaintiff's Intellectual Properties, are in total disregard of Plaintiff's rights and  
17 were commenced and have continued in spite of notice provided to Defendant regarding its illegal  
18 conduct and Defendant's knowledge that the use of any of Plaintiff's Intellectual Properties or a  
19 copy or a colorable imitation thereof, was and is in direct contravention of Plaintiff's rights.

20       34. The use by Defendant of a copy of Plaintiff's Intellectual Properties has been  
21 without the consent of Plaintiff, is likely to cause confusion and mistake in the minds of the  
22 purchasing public and, in particular, tends to and does falsely create the impression that the goods  
23 sold by the Defendant's Accounts are authorized, sponsored, or approved by Plaintiff when, in fact,  
24 they are not.

35. Plaintiff has no adequate remedy at law and is suffering irreparable harm and damages as a result of the acts of Defendant as aforesaid in an amount thus far not determined.

## **FIRST CLAIM FOR RELIEF**

**(For Trademark Infringement)**

36. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1 through 35, inclusive as though fully set forth herein.

37. Plaintiff owns the exclusive trademark rights in the Plaintiff's Trademarks. The Plaintiff's Trademark registrations are in full force and effect and are owned by Plaintiff and have not been abandoned and are widely used by Plaintiff throughout the United States. In many cases the trademarks have become incontestable pursuant to 15 U.S.C. §1065.

38. Notwithstanding Plaintiff's well-known and prior common law and statutory rights in the Plaintiff's Trademarks, Defendant has, with actual notice of Plaintiff's rights, and long after the Plaintiff established its rights in the Plaintiff's Trademarks, adopted and used the trademarks in interstate commerce.

39. Defendant has engaged in services using Plaintiff's Trademarks without the authorization of Plaintiff, and has continued to infringe Plaintiff's Trademarks, thus creating a likelihood of confusion, deception and mistake.

40. Upon information and belief, Defendants' activities constitute willful and intentional infringing use of Plaintiff's Trademarks and were done in spite of Defendant's knowledge that the use of Plaintiff's Trademarks or any reproduction, counterfeit, copy or colorable imitation thereof, was and is in direct contravention of Plaintiff's rights.

41. Plaintiff has no adequate remedy at law and is suffering irreparable harm and damage as a result of the Defendant's acts complained of herein in an amount thus far not determined.

## **SECOND CLAIM FOR RELIEF**

**(For Contributory Trademark Infringement)**

42. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1 through 41, inclusive, as though fully set forth herein.

43. The Defendant's Accounts are engaging in illegal conduct on the websites to which the NexTag Website redirects internet traffic by selling counterfeit goods in violation of 18 U.S.C. § 2320.

44. Defendant has actual knowledge of Defendant's Accounts' illegal activities from, among other things, its own keywords used to describe the product offered by the Defendant's Accounts and from written notification by counsel and agents for Plaintiff. See Ex. D.

45. Defendant has deliberately disregarded these notifications and has otherwise consciously avoided learning about the full extent of illegal counterfeiting and infringing activities that are continuing at the Defendant's Accounts' websites.

46. Defendant has materially encouraged, enabled, and contributed to the infringing conduct at the Defendant's Accounts' websites by publicizing, promoting and directing Internet Traffic to websites through which sales of counterfeit Louis Vuitton merchandise can be completed.

47. Defendant therefore bears contributory liability for the Defendant's Accounts' counterfeiting of the Plaintiffs' Trademarks in violation of 15 U.S.C. § 1051, et seq. and the common law.

48. Plaintiff has no adequate remedy at law and has suffered irreparable harm and damage as a result of the contributory counterfeiting conduct of the Defendant.

49. Plaintiff has sustained damages as a result of the Defendant's wrongful contributory conduct in an amount to be ascertained at trial but in no event less than One Million Dollars (\$1,000,000) per trademark per counterfeit.

### **THIRD CLAIM FOR RELIEF**

**(For Vicarious Trademark Counterfeiting)**

50. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1 through 49, inclusive, as though fully set forth herein.

51. The illegal sales of products that infringe on the Plaintiffs' Trademarks have generated enormous sums of monies for the Defendant's Accounts and "pay per click" revenue for the Defendant.

52. Despite the Defendant's duty and right to control the Website, it has taken no steps to stop or otherwise prevent the ongoing counterfeiting at the websites operated by the Defendant's Accounts or to disconnect links directing its users to such websites.

53. Defendant is therefore vicariously liable for the damages caused to Plaintiffs as a result of the illegal sales of counterfeit merchandise at the Properties in violation of 15 U.S.C. § 1051, et seq., and the common law.

54. Plaintiffs have sustained damages as a result of the Defendant's wrongful vicarious conduct in an amount to be determined at trial but in no event less than One Million Dollars (\$1,000,000) per trademark per counterfeit.

**FOURTH CLAIM FOR RELIEF**

#### (Contributory and Vicarious Copyright Piracy)

55. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1 through 54, inclusive, as though fully set forth herein.

56. Defendant earns a "pay per click" commission for each Internet user directed to websites operated by the Defendant's Accounts. Defendant does so pursuant to terms of use which permit it to discontinue links through websites offering product infringing the rights of third parties.

57. Defendant has actual knowledge of the illegal acts of the Defendant's Accounts from, among other things, written notification from Plaintiff. Defendant has therefore deliberately disregarded and otherwise consciously avoided learning about the full extent of illegal counterfeiting and infringing activities that are continuing at the websites operated by the Defendant's Accounts.

58. Defendant has knowingly and willfully permitted and continues to permit the Defendant's Accounts to sell and offer for sale unauthorized copies of products bearing Louis Vuitton Intellectual Properties at their websites.

59. Defendant has therefore materially encouraged, enabled, and contributed to the infringing conduct at the websites operated by the Defendant's Accounts.

60. Plaintiff has sustained, and will continue to sustain, substantial injuries, loss, and damage to its exclusive rights in the Louis Vuitton Copyrights, and Plaintiff has sustained and will continue to sustain damages from the loss of value of the exclusive rights hereunder as a result of the Defendant's wrongful conduct in an amount to be determined at trial but in no event less than One Hundred and Fifty Thousand Dollars (\$150,000) per copyright infringed.

## **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands:

1) That Defendant and its officers, agents, servants, employees, representatives, successors, and assigns; and all other persons, firms, or corporations in active concert or

1 participation with said Defendant who receive actual notice of this Order, be temporarily,  
2 preliminarily and permanently enjoined and restrained from:

- 3           a) directly or indirectly infringing Plaintiff's Trademarks or any marks similar  
4           thereto, in any manner, including generally, but not limited to engaging in  
5           services and manufacturing, importing, distributing, advertising, selling,  
6           and/or offering for sale any merchandise which infringes said Trademarks  
7           and specifically:  
8  
9              i) advertising, selling, and/or offering for sale any other  
10             unauthorized merchandise, which pictures, reproduces, or  
11             utilizes the likenesses of or which copy or are likely to cause  
12             consumer confusion with any of Plaintiff's Trademarks;  
13  
14              ii) posting any links to websites which offer product purporting  
15             to be Plaintiff's product or any imitation or replica thereof;  
16  
17           b) indirectly infringing Plaintiff's Copyrights, in any manner, including  
18             generally, but not limited to engaging in services and manufacturing,  
19             importing, distributing, advertising, selling, and/or offering for sale any  
20             merchandise which infringes said Copyrights and specifically:  
21  
22              i) advertising, selling, and/or offering for sale any other  
23             unauthorized merchandise, which pictures, reproduces, or  
24             utilizes the likenesses of or which copy or are substantially  
25             similar to any of Plaintiff's Copyrights;  
26  
27              ii) posting any links to websites which offer product purporting  
28             to be Plaintiff's product or any imitation or replica thereof;

c) effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs A and B.

- 2) That Defendant be required to account to Plaintiff for all profits and damages resulting from Defendant's infringing activities and that the award to Plaintiff be increased as provided for under 15 U.S.C. §1117;
- 3) That Defendant pay over to Plaintiff in the alternative statutory damages pursuant to 15 U.S.C. § 1117(c);
- 4) That Plaintiff have a recovery from Defendants of the costs of this action and Plaintiff's reasonable attorneys' fees pursuant to 15 U.S.C. §1117(b);
- 5) That Defendant be required to account to Plaintiff for all profits and damages resulting from Defendant's respective infringing activities as provided for under 17 U.S.C. §504;
- 6) That Defendant pay over to Plaintiff in the alternative statutory damages pursuant to 15 U.S.C. § 504;
- 7) That Plaintiff have a recovery from Defendant of the costs of this action and Plaintiff's reasonable attorneys' fees pursuant to 17 U.S.C. §505;
- 8) That Plaintiff has all other and further relief as the Court may deem just and proper under the circumstances.

Dated: July 19, 2007

J. ANDREW COOMBS  
A Professional Corporation

By: J. Andrew Coombs  
Attorneys for Plaintiff Louis Vuitton Malletier,  
S.A.

A

**Louis Vuitton Handbag Replica - Handbags & Wallets - Compare Prices, Reviews and Buy at NextTag - Microsoft Internet Explorer**

http://www.nexttag.com/louis-vuitton-handbag-replica/search.html

G Louis Vuitton replica

By Keyword:  [Go]

**Related Searches**

- louis vuitton handbag
- louis vuitton messenger bag
- louis vuitton denim handbag replica
- louis vuitton handbag replica theda
- louis vuitton handbag replica alma
- louis vuitton wallet
- louis vuitton bag
- clothing accessories
- louis vuitton

**My Lists** [X]

Recently Viewed Items

Shopping List

Wish List

**Louis Vuitton Replica Handbag**

Speedy 30 (Replica Handbag)

The Speedy 30 Gorgeous White Monogram Multicolor Speedy 3D comes with dust bag. Triple AAA quality leather with leather trim that will naturally darken over time.

+ Add to Shopping List | More Like This ▾

In stock at Ezhandbags ★★★★☆ 8 Seller Reviews

**Louis Vuitton 2004 Theda GM (Replica Handbag)**

The Lv Theda GM is here and is a TOP selling purse for spring 2004! Don't miss out!

+ Add to Shopping List | More Like This ▾

In stock at Ezhandbags ★★★★☆ 8 Seller Reviews

**Louis Vuitton Monogram Speedy 25**

Louis Vuitton Speedy 25 is a versatile handbag with the interpretation of Louis Vuitton's famous travel Keppel.

+ Add to Shopping List | More Like This ▾

In stock at Ezhandbags ★★★★☆ 8 Seller Reviews

**Louis Vuitton Monogram Billfold (Replica Wallet)**

The Monogram canvas has been at the fingertips of the fashion elite for more than a century.

+ Add to Shopping List | More Like This ▾

In stock at Ezhandbags ★★★★☆ 8 Seller Reviews

**Louis Vuitton Monogram Boulogne**

LV's classic Monogram canvas takes on a feminine turn in the Boulogne bag.

+ Add to Shopping List | More Like This ▾

In stock at Ezhandbags ★★★★☆ 8 Seller Reviews

EXHIBIT A PAGE 18

B

**NexTag** Comparison Shopping

All Categories : Clothing & Accessories : Handbags & Wallets : **louis vuitton handbag replica**

Products Mortgage Travel Degrees More ▾ **Nextag Search**

related searches: louis vuitton handbag replica messenger, louis vuitton denim handbag replica, more...

To calculate TruePrice, including exact Tax and Shipping, enter your Zip code: [ ]

Showing 1 - 15 of 79 matches, sorted by Best Match ▾

Image	Name	Price	Seller	Reviews
	<b>Louis Vuitton White Blossom Speedy 25 (Replica) Handbag</b>	In stock at \$85.00	Ezhandbags	Buy at Seller
	<b>Louis VUITTON Monogram Speedy 30</b>	In stock at \$85.00	Ezhandbags	Buy at Seller
	<b>Louis Vuitton Replica MONOGRAM ABBESSES MESSENGER BAG GREAT FOR SCHOOL OR WORK</b>	In-stock options at \$50.00	designeroptions	Buy at Seller
	<b>Louis Vuitton Replica</b>	In stock at \$50.00	designeroptions	Buy at Seller

**By Brand:**

- LOUIS VUITTON (14)
- Louis Vuitton Replica (1)

**Narrow These Results**

**By Price:**

- Under \$50
- \$50 - \$90
- \$90 - \$130
- \$130 - \$150
- Over \$150

**By Handbag Type:**

- Bucket (2)
- French Purses (1)
- Purses (7)
- Wallets (13)

**By Wallet Type:**

- Checkbook (2)
- Mini (2)

**By Seller:**

- Ezhandbags (76)
- designeroptions (1)

**By Keyword:**

EXHIBIT 17 PAGE 14

A screenshot of the Nextag website, which is a price comparison platform. The main header says "Vuitton Replica - Compare Prices, Reviews and Buy at NextTag - Price - Review - Microsoft Internet Explorer". Below the header, there's a large "NexTag" logo with the tagline "Comparison Shopping". A search bar shows the query "vuitton replica". To the right of the search bar are buttons for "Products", "Mortgage", "Travel", "Degrees", and "more...". Below the search bar, there's a link to "Narrow These Results" and a "Related Searches" section with links like "louis vuitton handbag replica", "louis vuitton replica", and "louis vuitton more...". The main content area displays search results for "vuitton replica" sorted by "Best Match". There are 16 items listed, each with a thumbnail image, product name, seller information (e.g., "In stock at designeroptions"), price (\$35.00), and a "Buy at Seller" button. Each item also has a "Seller Review" count (e.g., "1 Seller Review"). The items include various Louis Vuitton replica products such as the Monogram Alma Bag, Checkbook Wallet, and Handbags.



C

File Edit View Insert Favorites Tools Help

Back Forward Stop Refresh Home

Address: http://www.google.com/search?hl=en&q=lv+replica

**Google** lv replica Advanced Search Preferences

Web

Results 1 - 10 of about 971,000 for lv replica. (0.17 seconds)

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**Louis Vuitton Handbags, Wholesale Replica Purses, Wallets**  
Offers Louis Vuitton replica handbags and other designer replica purses.  
[www.basicreplica.com/](http://www.basicreplica.com/) - Cached - Similar pages

**Louis Vuitton Replica Handbags and Discount Designer Replica Handbag**  
Louis Vuitton replica handbags store sells replica handbags, Louis Vuitton replicas, discount designer replica and discount replica handbags.  
[www.ourloveone.com/](http://www.ourloveone.com/) - Cached - Similar pages

**LV Louis Vuitton Replica Handbags, Designer Chanel Chloe & Fendi ...**  
The online store to buy replica handbags, wallets and purse of top most designer. We sell replica handbags of Louis Vuitton, Chanel, Fendi, Gucci and many ...  
[www.highreplica.com/](http://www.highreplica.com/) - 30k - Cached - Similar pages

**LV Bags, Multicolor LV Bags, Cherry Blossom Handbags, Jelly Handbags.**  
UGG Boots LV Bags, uggs ugg boots handbags uggs jelly knockoff jelly bag ugg. ... lv bags shirley audra speedy audra scarf [louis vuitton replica handbags replica ...](http://www.ultimatehandbags.com/)  
[www.ultimatehandbags.com/](http://www.ultimatehandbags.com/) - 11k - Cached - Similar pages

**Louis Vuitton Replica - Handbags & Wallets - Compare Prices ...**  
Louis Vuitton Replica - 79 results like the Louis Vuitton Monogram Pgase 50 (Replica Luggage), Louis Vuitton White Blossom Speedy 25 (Replica Handbag), ...  
[www.nextag.com/louis-vuitton-replica/search-html](http://www.nextag.com/louis-vuitton-replica/search-html) - 91k - 19 May 2007 - Cached - Similar pages

**Louis Vuitton Handbag Replica - Clothing & Accessories - Compare ...**  
Louis Vuitton Handbag Replica - 79 results like the Louis Vuitton White Blossom Speedy 25 (Replica Handbag), LOUIS VUITTON Monogram Speedy 30, Louis Vuitton ...  
[www.nextag.com/louis-vuitton-handbag-replica/search-html](http://www.nextag.com/louis-vuitton-handbag-replica/search-html) - 100k - 20 May 2007 - Cached - Similar pages

Google

Web

Results 1 - 10 of about 1,580,000 for **vuitton replica**. (0.07 seconds)

<http://www.google.com/search?hl=en&q=vuitton+replica>

**Louis Vuitton Handbags, Wholesale Replica Purses, Wallets Offers Louis Vuitton replica handbags and other designer replica purses.**

[www.basicreplica.com/](http://www.basicreplica.com/) - 29k - Cached - Similar pages

**Louis Vuitton Handbags, Purses, Wallet, Bag, & Replica Louis ... Offers replica designer handbags including Louis Vuitton, Chanel, Gucci, and Fendi.**

[www.louis-vuitton-replicas.net/](http://www.louis-vuitton-replicas.net/) - 30k - Cached - Similar pages

[www.laperle.com/](http://www.laperle.com/) - 2k - Cached - Similar pages

**Louis Vuitton**  
For genuine Louis Vuitton and Chanel merchandise, please visit the official Louis Vuitton and Chanel websites at [www.louisvuitton.com](http://www.louisvuitton.com) and [www.chanel.com](http://www.chanel.com).

**Replica Handbags - Designer Replica Handbags - Louis Vuitton Handbags**  
Designer Replica Handbags by AAA replicas. Find the best designer replica handbags .Louis Vuitton Handbags and Gucci handbags at best prices.

[www.aaareplicas.com/](http://www.aaareplicas.com/) - 9k - Cached - Similar pages

**Louis Vuitton Chanel Fendi Balenciaga Replica Handbags Purses ...**  
Offers wholesale replica handbags including Gucci, Chanel, Louis Vuitton, Fendi, Chloe, and other brand replicas.

[www.7starhandbags.com/](http://www.7starhandbags.com/) - 38k - Cached - Similar pages

**Louis Vuitton Handbag Replica - Clothing & Accessories - Compare ...**  
**Louis Vuitton Handbag Replica - 79 results like the Louis Vuitton White Blossom Speedy 25 (Replica Handbag), LOUIS VUITTON Monogram Speedy 30, Louis Vuitton ...**  
[www.nexttag.com/louis-vuitton-handbag-replica/search.html](http://www.nexttag.com/louis-vuitton-handbag-replica/search.html) - 100k - 20 May 2007 - Cached - Similar pages

replica vuitton - Yahoo! Search Results - Microsoft Internet Explorer

http://search.yahoo.com/search?p=replica+lv+uitton&fr=yfp-t-501&op=1&cp=m&sl=Ulf-B&vc=&fd\_ip=FR

Help

YAHOO! SEARCH [replica vuitton]

Web | Images | Video | Local | Shopping | more... Advanced Search

Search Results

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**Vuitton Replicas**  
www.Calibex.com/handbagswallets - Handbags & Wallets from 122+ Shops. Buy vuitton replicas Fast.

**Buy Vuitton Replicas**  
www.NexTag.com/handbagswallets - 9,000+ Purses, Wallets, & Bags. Vuitton replicas on Sale.

**Sponsor Results**

**Quality Replica Louis Vuitton**  
Handbags specialist online store selling  
Replicas Designers Handbags.  
www.lv-designerbags.com

**Sponsor Results**

See your message here...

1. **Louis Vuitton EPI replica**  
Louis Vuitton EPI replica - Counterfeiting is a serious crime ... Suhali handbag Louis Vuitton replica Imitation Louis Vuitton exact ... www.louisvuitton.com/info/fake/00511.htm - 9k - Cached - More from this site
2. **Louis Vuitton Designer Sunglasses - Replica** and designer sunglasses in ...  
Vuitton Designer Sunglasses - UK based suppliers of quality replica designer ... Our replica designer Louis Vuitton sunglasses are updated weekly with new ... replica-sunglasses.co.uk/cg1/btnview\_glasses.php ... - 29k - Cached - More from this site
3. **Bismarck Blogs :: The Bismarck Tribune**  
Bismarck Blogs is a free blog hosting provided by the Bismarck Tribune. ... The recent news story about the release of two ... In a Pinch by Brian Matthews ... www.bismarcktribune.com/blog/?w=louispurserreplicavuittonbov - 23k - Cached - More from this site
4. **Vuitton replica**  
Cheap Louis Vuitton replica - Counterfeiting is a serious crime. ... Suhali handbag Louis Vuitton Imitation Louis Vuitton exact ... www.louisvuitton.com/info/fake/00511.htm - 9k - Cached - More from this site

D



LOUIS VUITTON MALLETIER

**V**

Nextag.com  
buyersupport@nextag.com

April 24, 2007

By email (buyersupport@nextag.com)

**Re: Trademark and copyright claims**

To nextag.com:

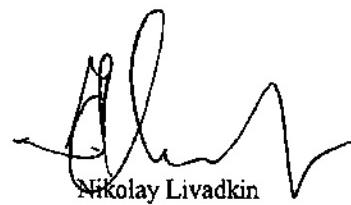
I am legal counsel for LOUIS VUITTON MALLETIER, the owner of certain copyrights and famous brands protected by trademark registrations throughout the world, including the United States (see next page)

We hereby notify you that your company is currently providing price comparison services and merchant information services to the website <http://www.x-bags.net/> and that **THIS SITE INFRINGES UPON LOUIS VUITTON MALLETIER'S TRADEMARKS AND COPYRIGHTS.**

In compliance with the Digital Millennium Copyright Act (DMCA), we ask your voluntary assistance in removing this web site, or requiring that its owner ceases any further infringement of the LOUIS VUITTON MALLETIER intellectual property rights.

We would appreciate confirmation of your action before May 4, 2007.

Sincerely,



Nikolay Livadkin

**EXHIBIT D PAGE 25**

**V****Information for Nextag.com (IN COMPLIANCE WITH THE DMCA):**

1. See above for signature.
2. <http://www.x-bags.net/> is using LOUIS VUITTON MALLETIER's copyrighted material without authorization and selling counterfeit merchandise, which is prohibited by law. LOUIS VUITTON MALLETIER is the owner of the following rights:

	Trademarks	Copyrights
Louis Vuitton	LV" ( <i>registration No. I.519.828</i> ), "Louis Vuitton" ( <i>registration No. I.990.760</i> ), "Floral Device" ( <i>registration No. 3.107.072</i> )	VA-1-225-388; VA-1-225-389; VA-1-225-390; VA-1-225-391, VA 1-250-121-and VA 1-250-120

3. By clicking the links below, we feel your servers will be able to accurately locate the infringing material. We have included several links that show that **counterfeits** are being sold in violation of the rights listed in § 2 above (list is not exhaustive):

<http://www.x-bags.net/>  
<http://www.x-bags.net/lv.aspx>  
<http://www.x-bags.net/products.aspx?cat=599&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=590&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=592&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=591&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=593&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=595&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=597&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=596&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=15&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=16&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=429>  
<http://www.x-bags.net/products.aspx?cat=7&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=3&maxprice=9999>  
<http://www.x-bags.net/products.aspx?cat=4&maxprice=9999>

4. Our physical address is  
LVMH Fashion Group  
Intellectual Property Department  
2 rue du Pont Neuf  
75001 Paris FRANCE  
Telephone number: 011 33 1 55 80 32 00  
You may contact our office through email at [jpd@fr.lvmh-fashion.com](mailto:jpd@fr.lvmh-fashion.com)

5. and 7. I state UNDER PENALTY OF PERJURY that I am authorized to act on behalf of the owner of the above listed intellectual property rights ("IP Owner"); I have a good faith belief that the web site <http://www.x-bags.net/> offers items or contains materials that are not authorized by the IP Owner, its agent, or the law, and therefore infringes the IP Owner's rights and that the information in this notice is accurate.

LAW OFFICES  
**J. ANDREW COOMBS**  
A PROFESSIONAL CORPORATION  
450 NORTH BRAND BOULEVARD, SUITE 600  
GLENDALE, CALIFORNIA 91203-2349  
TELEPHONE (818) 291-6444  
FACSIMILE (818) 291-6446  
EMAIL andy@coombspc.com

May 24, 2007

**Via Facsimile and  
Certified Mail**

Mr. Stephen Imbler  
Chief Financial Officer  
NexTag, Inc.  
1300 South El Camino Real, Suite 600  
San Mateo, California 94402  
Facsimile: (650) 645-4700

**Re: Notice of Infringement – Louis Vuitton Properties**

Dear Mr. Imbler:

We are counsel for Louis Vuitton Malletier (“Louis Vuitton”). Louis Vuitton owns valuable intellectual property rights in various famous trademarks, including LV, VUITTON and LOUIS VUITTON (collectively the “Louis Vuitton Trademarks”) and copyrights in promotional images published at, among other places, eLuxury.com (collectively the “Louis Vuitton Copyrights”).

To protect the value associated with the Louis Vuitton Trademarks and Copyrights, Louis Vuitton limits distribution of new merchandise and undertakes to stop the sale of unauthorized reproductions of the Louis Vuitton Trademarks. Louis Vuitton products are sold only by its fully owned, exclusive distribution network and on its websites eLuxury.com (for the United States) and LouisVuitton.com (for Europe). There are no licensees or distributors of authorized Louis Vuitton product. Louis Vuitton manufactures its own merchandise in France, Spain and the United States. Because of this exclusive production and distribution network, there are no third party merchants selling authorized new Louis Vuitton product.

In view of Louis Vuitton’s fame, reputation and enormous success in the marketplace, Louis Vuitton is among the most favored of targets for counterfeiters who seek to illegally profit from the Louis Vuitton brand. These counterfeiters are not

Mr. Stephen Imbler  
May 24, 2007  
Page 2 of 3

difficult to identify since all "new" Louis Vuitton product sold outside the Louis Vuitton network described above are unauthorized.

Louis Vuitton has learned that websites offering counterfeit product bearing identical or substantially similar representations of the Louis Vuitton Trademarks are included within search results that can be obtained using the comparison services of NexTag.com and related websites (the "Websites"). These same sites can quickly be located using search terms which incorporate Louis Vuitton Trademarks, with and without related terms including, for example, "replica." Worse still, NexTag, Inc. ("NexTag") cannot evade liability by claiming it does not know which sites sell counterfeits. Apart from the information supplied above, the seller sites listed on the Websites openly offer fakes. The Websites' own search results list "replica" sites. In so doing, NexTag facilitates and encourages the traffic in counterfeit Louis Vuitton product.

NexTag's liability is exacerbated by the steps it takes to attract Louis Vuitton buyers to its site. As illustrated in the attached printouts, NexTag uses metatags and sponsored links using the Louis Vuitton Trademarks and the term "replica" to entice buyers to the Websites and to sellers that specialize in sales of counterfeit Louis Vuitton merchandise. NexTag profits from the encouragement it provides for this illegal traffic.

NexTag may be liable for contributory and vicarious trademark and copyright infringement. "One infringes contributorily by inducing or encouraging direct infringement..." *Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 545 U.S. 913, 930 (2005). NexTag assists its sellers' traffic in counterfeit Louis Vuitton product and, by directly linking buyers to such sellers, encourages and facilitates that illegal activity. One "infringes vicariously by profiting from direct infringement while declining to exercise a right to stop or limit it." *Id.* Similar standards apply to contributory trademark and copyright infringement. *Fonovisa, Inc. v. Cherry Auction, Inc.*, 76 F.3d 259, 264 (9<sup>th</sup> Cir. 1996). NexTag derives a commercial benefit from the page view and/or sales consummated as a result of buyers using its shopping comparison services.

Louis Vuitton demands that NexTag immediately (i) cease using the Louis Vuitton Trademarks to direct traffic to offers of unauthorized or counterfeit product; (ii) remove from NexTag's comparison services all sites which offer unauthorized Louis Vuitton product; (iii) provide NexTag's assurance that it has adopted filters and/or practices to insure that such infringement of the Louis Vuitton Trademarks will not resume in the future; (iv) to the extent a search using any of the Louis Vuitton Trademarks, such searches resolve to the authorized online channels described above; and (v) provide an accounting of all revenue and profits earned from the advertisement and marketing of counterfeit Louis Vuitton products. Please be advised that if we are unable to resolve these issues we have been instructed to take all appropriate action to enforce the Louis Vuitton Trademarks and Copyrights.

Mr. Stephen Imbler  
May 24, 2007  
Page 3 of 3

The foregoing is without prejudice to Louis Vuitton's rights and remedies, all of which are expressly preserved.

Very Truly Yours,

J. Andrew Coombs,  
A Professional Corporation

~~By: J. Andrew Coombs  
Counsel for Louis Vuitton Malletier~~

JAC:bm

Enclosures

LAW OFFICES  
**J. ANDREW COOMBS**  
A PROFESSIONAL CORPORATION  
450 NORTH BRAND BOULEVARD, SUITE 600  
GLENDALE, CALIFORNIA 91203-2349  
TELEPHONE (818) 291-6444  
FACSIMILE (818) 291-6446  
EMAIL andy@coombspc.com

June 18, 2007

**Via Facsimile and  
Certified Mail**

Mr. Stephen Imbler  
Chief Financial Officer  
NexTag, Inc.  
1300 South El Camino Real, Suite 600  
San Mateo, California 94402  
Facsimile: (650) 645-4700

**Re: Notice of Infringement – Louis Vuitton Properties**

Dear Mr. Imbler:

We follow up on our letter dated May 24, 2007, a copy of which is attached. Not only have we received no response to that letter, the infringement described continues, as evidenced by the attached printout from Yahoo!. We demand that NexTag, Inc. immediately desist from infringing conduct outlined in our correspondence and provide the accounting and assurances demanded, failing which Louis Vuitton Malletier ("Louis Vuitton") will have no alternative but to conclude that NexTag, Inc. has no interest in an amicable resolution of Louis Vuitton's claims.

The foregoing is without prejudice to Louis Vuitton's rights and remedies, all of which are expressly preserved.

Very Truly Yours,

J. Andrew Coombs,  
A Professional Corporation

By J. Andrew Coombs  
Counsel for Louis Vuitton Malletier

JAC:bm  
Enclosure

LAW OFFICES  
**J. ANDREW COOMBS**  
A PROFESSIONAL CORPORATION  
450 NORTH BRAND BOULEVARD, SUITE 600  
GLENDALE, CALIFORNIA 91203-2349  
TELEPHONE (818) 291-6444  
FACSIMILE (818) 291-6446  
EMAIL andy@coombspc.com

July 6, 2007

Via Facsimile and  
Certified Mail  
(650) 341-3779

Mr. Stephen Imbler  
Chief Financial Officer  
NexTag, Inc.  
1300 South El Camino Real, Suite 600  
San Mateo, California 94402

**Re: Notice of Infringement – Louis Vuitton Properties**

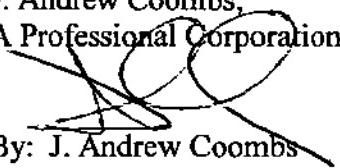
Dear Mr. Imbler:

I acknowledge receipt of your letter dated June 29, 2007 and transmitted in response to our letters dated May 24, 2007 and June 18, 2007. Despite NexTag's delay in responding to Louis Vuitton's demands, we note that the response includes no satisfactory response to any of Louis Vuitton's demands. In particular, we note that the offer of expressly counterfeit ("replica") Louis Vuitton product persists on websites operated by NexTag. NexTag has provided no meaningful assurances or even any time frame during which ANY infringing offers will be removed from NexTag's service and it has provided no accounting as demanded in our letters. If we do not receive prompt satisfaction concerning these issues, we have been instructed to proceed with filing a civil action against NexTag concerning these ongoing willful infringements of its rights.

The foregoing is without prejudice to Louis Vuitton's rights and remedies, all of which are expressly preserved.

Very Truly Yours,

J. Andrew Coombs,  
A Professional Corporation

  
By: J. Andrew Coombs  
Counsel for Louis Vuitton Malletier

JAC:bm